

FILED

APR 28 2014

Phil Lombardi, Clerk
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

United States of America,

Plaintiff/Petitioner - Appellant,

v.

Lindsey K. Springer,

Defendant/Respondent - Appellee.

Case No. 09-CR-043

~~13-CV-145-SPF-TLN~~

Motion for Leave to Proceed on
Appeal Without Prepayment of
Costs or Fees (non-PLRA)

I, Lindsey K. Springer, the petitioner/appellant in the
captioned case move this court for leave to proceed in forma pauperis.

In support of this motion, I state that because of my poverty, I am unable to pay the
costs of said proceedings or give security therefor, I submit the following financial
declaration.

☒ Mail ☐ No Cert Svc ☐ No Orig Sign
☐ C/J ☐ C/MJ ☐ C/Ret'd ☐ No Env
☐ No Cpy's ☒ No Env/Cpy's ☐ O/J ☐ O/MJ of 17

FINANCIAL DECLARATION

Affidavit to Accompany Motion for Permission to Appeal in Forma Pauperis

I swear or affirm under penalty of perjury that because of my poverty I am unable to pay the docket fees of my appeal or to post a bond for them. I believe I am entitled to a different result than that reached in the district court.

I further swear or affirm under penalty of perjury that the responses which I have made to the questions and instructions below relating to my ability to pay the fees for my appeal are true.

Instructions. Please complete all questions in this application and then sign it on the last page. If the answer to any question is "0" or "none," or the question is "not applicable", so indicate by writing "0", "none", or "not applicable (N/A)". If additional space is needed to answer any question or to explain your answer to any question, please use and attach a separate sheet of paper identified with your name, the docket number of your case and the number of the question.

The issues to be raised on Appeal generally appear at the end of this motion labeled "Issues to Present" consisting of 3 pages (i, ii, iii).

1. Are you or your spouse currently employed? Yes _____ No X
2. If you or your spouse are currently employed, state the name and address of your employer, the length of your employment with that employer, and your monthly gross pay. Gross pay is pay before any taxes or other deductions are taken. If you have more than one employer, please provide the information requested below about the other employer(s) on a separate sheet of paper and attach it to this application.

Yourself:

Your Spouse:

Name and Address of Employer

Name and Address of Employer

Bureau of PrisonsNot MarriedP.O. Box 6000Anthony New Mexico 88021

Length of Employment

0	1
Years	Months

Length of Employment

Years	Months
-------	--------

Monthly Gross Pay \$ 10.08

Monthly Gross Pay \$ _____

3. If you are currently unemployed, state the date of your last employment and your monthly gross pay during your last month of employment. Gross pay is pay before any taxes or other deductions are taken.

Date of last employment (Month/Year) for yourself _____; spouse _____

Monthly gross pay during last month of employment \$ _____

State whether you or your spouse have received money from any of the following sources during the past twelve months, and, if so, the average monthly amount from that source.

Adjust any money that was received weekly, bi-weekly, quarterly, semi-annually, or annually to show the monthly rate.

Did you receive money from any of the following sources during the past 12 months?

Average monthly amount during past 12 months for you and your spouse if applicable.

Amount expected next month

		You	Spouse	You	Spouse
Self-employment	Y/N <u>N</u>	\$ <u>N</u>	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	Y/N <u>N</u>	\$ <u>N</u>	\$ _____	\$ _____	\$ _____
Interest and dividends	Y/N <u>N</u>	\$ <u>N</u>	\$ _____	\$ _____	\$ _____
Gifts	Y/N <u>Y</u>	\$ <u>135⁰⁰</u>	\$ _____	\$ <u>none</u>	\$ _____
Alimony	Y/N <u>N</u>	\$ _____	\$ _____	\$ _____	\$ _____
Child Support	Y/N <u>N</u>	\$ _____	\$ _____	\$ _____	\$ _____

Retirement income from sources
such as social security, private
pensions, annuities, or insurance
policies

Y/N N \$ _____ \$ _____ \$ _____ \$ _____

Disability payments such as social
security, other state or federal
government, or insurance
payments

Y/N N \$ _____ \$ _____ \$ _____ \$ _____

Unemployment payments

Y/N N \$ _____ \$ _____ \$ _____ \$ _____

Public assistance payments such as
welfare payments

Y/N N \$ _____ \$ _____ \$ _____ \$ _____

Other sources of money
(specify: _____)

Y/N N \$ _____ \$ _____ \$ _____ \$ _____

I hope my family will send me support but have no way of being certain.

TOTAL \$ 145⁰⁰ \$ _____ \$ none \$ _____

5. State the amount of cash you and your spouse have: \$ 2

State below any money you or your spouse have in savings, checking, or other accounts in a
bank or other financial institution.

Bank or Other Financial Institution:	Type of Account such as savings, checking, or CD:	Amount you have:	Amount your spouse has:
<u>None</u>		\$ _____	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____

6. State below the assets owned by you and your spouse. **Do not list ordinary household furnishings and clothing.**

Home	Address: _____	Value: \$ _____
	<u>None</u> _____	Amount owed on mortgages and
	_____	liens: \$ _____
Other real estate	Address: _____	Value: \$ _____
	<u>None</u> _____	Amount owed on mortgages and
	_____	liens: \$ _____
Motor vehicle	Model/Year: _____	Value: \$ _____
	<u>None</u> _____	Amount owed: \$ _____
Motor vehicle	Model/Year: _____	Value: \$ _____
	<u>None</u> _____	Amount owed: \$ _____
Other	Description: _____	Value: \$ _____
	<u>None</u> _____	Amount owed: \$ _____

7. State below any person, business, organization, or governmental unit that owes you or your spouse money and the amount that is owed.

Name of Person, Business, or Organization that Owes You or Your Spouse Money	Amount Owed You:	Amount Owed Your Spouse:
<u>None</u> _____	\$ _____	\$ _____
_____	\$ _____	\$ _____

8. State the individuals who rely on you and your spouse for support. Indicate their relationship to you, their age, and whether they live with you.

Name	Relationship	Age	Does this person live with you?	
None			Yes _____	No _____
_____	_____	_____	Yes _____	No _____
_____	_____	_____	Yes _____	No _____
_____	_____	_____	Yes _____	No _____

9. Complete this question by estimating the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, bi-weekly, quarterly, semi-annually, or annually to show the monthly rate.

	You	Spouse
Rent or home mortgage payment (include lot rented for mobile home)	\$ <u>n/a</u>	\$ _____
Are real estate taxes included? Yes _____ No _____		
Is property insurance included? Yes _____ No _____		
Utilities: Electricity and heating fuel	\$ <u>n/a</u>	\$ _____
Water and sewer	\$ <u>n/a</u>	\$ _____
Telephone	\$ <u>n/a</u>	\$ _____
Other _____	\$ <u>n/a</u>	\$ _____
Home maintenance (Repairs and upkeep)	\$ <u>n/a</u>	\$ _____
Food	\$ <u>30.00 avg.</u>	\$ _____
Clothing	\$ <u>n/a</u>	\$ _____
Laundry and dry cleaning	\$ <u>n/a</u>	\$ _____
Medical and dental expenses	\$ <u>n/a</u>	\$ _____
Transportation (not including car payments)	\$ <u>n/a</u>	\$ _____

Recreation, clubs and entertainment, newspapers, magazines, etc.	\$ <u>n/a</u>	\$ _____
Charitable contributions	\$ <u>n/a</u>	\$ _____
Insurance (not deducted from wages or included in home mortgage payments)		
Homeowner's or renter's	\$ <u>n/a</u>	\$ _____
Life	\$ <u>n/a</u>	\$ _____
Health	\$ <u>n/a</u>	\$ _____
Auto	\$ <u>n/a</u>	\$ _____
Other _____	\$ <u>n/a</u>	\$ _____
Taxes (not deducted from wages or included in home mortgage payments) (specify) _____		\$ _____
Installment payments		
Auto:	\$ <u>n/a</u>	\$ _____
Credit Card: (name) _____	\$ <u>n/a</u>	\$ _____
Department Store: (name) _____	\$ <u>n/a</u>	\$ _____
Other _____	\$ <u>n/a</u>	\$ _____
Other _____	\$ <u>n/a</u>	\$ _____
Alimony, maintenance, and support paid to others	\$ <u>n/a</u>	\$ _____
Payments for support of additional dependents not living at your home	\$ <u>n/a</u>	\$ _____
Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$ <u>n/a</u>	\$ _____
Other <u>Copies, Type Ribbon, Correct Ribbon, Stamps, ect</u>	\$ <u>57.50</u>	\$ _____
Fine FRP	\$ <u>25.00</u>	
TOTAL MONTHLY EXPENSES	\$ <u>102.50</u>	\$ _____
Filing Fee in 14-CV-071-IFP-	<u>26.00</u>	
	128.50	

10. Do you expect any major changes to your monthly income or expenses during the next four months? Yes _____ No X

If yes, describe.

11. Have you paid an attorney any money for services in connection with this case, including the completion of this form? Yes _____ No X

If yes, how much? \$ _____

If yes, provide the name, address, and telephone number of the attorney:

Have you promised to pay or do you anticipate paying an attorney any money for services in connection with this case, including the completion of this form? Yes _____ No X

If yes, how much? \$ _____

If yes, provide the name, address, and telephone number of the attorney:

12. Have you paid anyone other than an attorney (such as a paralegal, typing service, or another person) any money for services in connection with this case, including the completion of this form?

Yes _____ No X

If yes, how much? \$ _____

If yes, provide the name, address, and telephone number of the person or service:

13. Have you promised to pay or do you anticipate paying anyone other than an attorney (such as a paralegal, typing service, or another person) any money for services in connection with this case, including the completion of this form? Yes _____ No X

If yes, how much? \$ _____

If yes, provide the name, address, and telephone number of the person or service:

14. How much can you pay each month toward the docket fee for your appeal.

\$ None

15. Please provide any other information that helps to explain why you are unable to pay the docket fees for your appeal.

I am prison and need what little I receive to maintain basic essentials with a majority going to copies, type ribbon, correct ribbon, stamps, envelopes with almost nothing left.

16. State the address of your legal residence:

Reg. No. 02580-063, Federal Satellite Low La Tuna,

P.O. Box 6000, Anthony New Mexico 88021

Your daytime phone number:

() None

Your age: 48

Years of schooling: High School Diploma

Your social security number: 444-78-3758

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. 28 U.S.C. § 1746, 18 U.S.C. § 1621.

Date: April 22, 2014 Signature: Lindsey K Spruyn

CERTIFICATE OF SERVICE

I hereby certify that on April 23 2014 I sent a copy of
[date]

the foregoing Motion for Leave to Proceed on Appeal without Prepayment of
Costs of Fees, to: Danny C. Williams Sr, Jeffrey A. Gallant, and
Charles A. O'Reilly, at or through the District Court's
ECF system as he is a registered user. I mailed the original to Clerk of
Court, 333 W. Fourth St, Tulsa, OK 74103, the last known
address/email address, by _____.
[state method of service]

4/23/14
Date

Lindsey K Spruzy
Signature

DECLARATION OF MAILING

I declare under the penalty of perjury pursuant to 28 U.S.C. § 1746(1),
under the laws of the United States of America, that I deposited the above
Motion to Proceed in Forma Pauperis, and Statement of Institutional Accounts,
on February 12, 2014, in the U.S. Mailbox located inside FSL La Tuna.

4/23/14
Date

Lindsey K Spruzy
Declarant

STATEMENT OF INSTITUTIONAL ACCOUNTS

I hereby state that on 22ND day of April, 20 14 this prisoner had \$ 97.18
in his/her draw account and \$ 0 in his/her savings account.*

A ledger sheet for this prisoner's trust account (or institutional equivalent) for the preceding six month period, or for the entire period of confinement if less than six months, is attached.

4/22/14
Date

[Signature]
Authorized Prison Officer


Sgt Correctional Counselor
Title FSL LA TUNA

Inmate Inquiry

Inmate Reg #: 02580063 Current Institution: El Paso FPC
 Inmate Name: SPRINGER, LINDSEY Housing Unit: ELP-S-E
 Report Date: 04/22/2014 Living Quarters: S05-107U
 Report Time: 2:47:46 PM

[General Information](#) | [Account Balances](#) | [Commissary History](#) | [Commissary Restrictions](#) | [Comments](#)

General Information

Administrative Hold Indicator: No
 No Power of Attorney: No
 Never Waive NSF Fee: No
 Max Allowed Deduction %: 100
 PIN: 9352
 PAC #: 773694753
 FRP Participation Status: Participating
 Arrived From: LAT
 Transferred To:
 Account Creation Date: 5/7/2010
 Local Account Activation Date: 12/24/2013 3:20:23 AM
 Sort Codes: 
 Last Account Update: 4/22/2014 6:34:50 AM
 Account Status: Active
 Phone Balance: \$0.00

Pre-Release Plan Information

Target Pre-Release Account Balance: \$0.00
 Pre-Release Deduction %: 0%
 Income Categories to Deduct From: ☐ Payroll ☐ Outside Source Funds

FRP Plan Information

FRP Plan Type	Expected Amount	Expected Rate
Monthly	\$25.00	0%

Account Balances

Account Balance: \$97.18
 Pre-Release Balance: \$0.00
 Debt Encumbrance: \$0.00
 SPO Encumbrance: \$0.00
 Other Encumbrances: \$0.00

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Outstanding Negotiable Instruments: \$0.00
Administrative Hold Balance: \$0.00
Available Balance: \$97.18
National 6 Months Deposits: \$739.58
National 6 Months Withdrawals: \$732.01
Available Funds to be considered for IFRP Payments: \$189.58
National 6 Months Avg Daily Balance: \$76.71
Local Max. Balance - Prev. 30 Days: \$188.43
Average Balance - Prev. 30 Days: \$103.95

Commissary History

Purchases

Validation Period Purchases: \$89.00
YTD Purchases: \$464.35
Last Sales Date: 4/22/2014 6:34:50 AM

SPO Information

SPO's this Month: 0
SPO \$ this Quarter: \$0.00

Spending Limit Info

Spending Limit Override: No
Weekly Revalidation: No
Bi-Weekly Revalidation: No
Spending Limit: \$320.00
Expended Spending Limit: \$33.60
Remaining Spending Limit: \$286.40

Commissary Restrictions

Spending Limit Restrictions

Restricted Spending Limit: \$0.00
Restricted Expended Amount: \$0.00
Restricted Remaining Spending Limit: \$0.00
Restriction Start Date: N/A
Restriction End Date: N/A

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Item Restrictions

List Name	List Type	Start Date	End Date	Active
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Comments

Comments:

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Issues to Present

1. Did the district court address the specific claims raised in Appellant's Federal Rules of Criminal Procedure Rule 41(g) motion that the September 15, 2005 search warrant, and the September 16, 2005 subsequent search of Appellant's home, was unlawful, at the July 2, 2009 motions hearing?
2. Does Rule 41(g) allow Appellant to challenge lawfulness of the September 16, 2005 search of his home, under the circumstances of this case, while an Application by motion is pending pursuant to 28 U.S.C. § 2255?
3. After the June 3, 2005 Institutional Referral by IRS authorizing a grand jury investigation of Appellant for Title 26, or Title 26 related violations involving personal income taxes for years 2000 through 2004, does the IRS retain enforcement authority under Title 26 to be used to gather evidence for the United States attorney, or his assistants, to present to a pending grand jury?
4. Does the prophylactic rule announced in U.S. v. LaSalle, 437 U.S. 298, 308-317 (1978), once an IRS institutional grand jury referral has been made to the Department of Justice, exclude IRS Criminal Investigators from being considered "Federal law

- ii -

enforcement officer(s) "who are "engaged in enforcing the criminal laws" under Title 26, or Title 26 related violations, for purpose of Federal Rules of Criminal Procedure Rule 41(a)(2)(C) and 41(b), where the alleged Title 26, and Title 26 related violations listed in the IRS referral are the same violations, for the same years, sought to be enforced by the IRS Criminal Investigator's Search Warrant 3 months after the referral?

5. Is the application for a search warrant, and its subsequent issuance pursuant to Federal Rules of Criminal Procedure Rule 41, an Article III, § 2 case or controversy requiring Article III, § 1 Judicial Power?

6. Does Rule 41(b), facially, and as applied, violate Article III, §§ 1 and 2 Judicial Power purporting to authorize a 28 U.S.C. § 631 8 year term Magistrate Judge to issue search warrant in an Article III § 2 case or controversy of property within the State of Oklahoma?

7. Did the Tenth Circuit rule in Springer v. Albin, 398 Fed. Appx 427, 429-432 (10th Cir. 2010) that the amount of currency seized on September 16, 2005, during the search of Appellant's home, was only \$17,000 instead of \$19,000?

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8. Where an issue of fact is so clearly in Appellant's favor regarding the amount seized on September 16, 2005 being \$19,000, is a finding the amount was only \$17,000 a clear abuse of discretion for purpose of a Rule 41(g) motion for Return of seized property?

9. Is it a clear abuse of discretion not to hold an evidentiary hearing on the seizure of \$19,000, and the subsequent return of only \$17,000, as well as to whether the issuance of the September 15, 2005 search warrant, and its September 16, 2005 execution, was unlawful, for purpose of Federal Rules of Criminal Procedure Rule 41?

Lindsey Kent Spring
Fed Reg # 02580-063
Federal Satellite Low-ha Tuna
P.O. Box 6000
Anthony, New Mexico 88021

RECEIVED

APR 28 2014

Phil Lombardi, Clerk
U.S. DISTRICT COURT

⇄02580-063⇄

Clerk Of Court
Northern District of Okla
333 W 4TH ST
Tulsa, OK 74103
United States

"Kegat Mail"

130V-145-50F-TLW

7410303555 5005



Postmarked 4/25/14

